



## ***Headquarters Policy Flash***

**FLASH 2001-01**

DATE: January 5, 2001  
TO: Procurement Directors  
FROM: Office of Procurement and Assistance Policy, MA-51  
Office of Procurement and Assistance Management

SUBJECT: **Rewrite of Regulations Governing Management and Operating Contracts**

SUMMARY: The Final Rule, "Rewrite of Regulations Governing Management and Operating Contracts," was published in the Federal Register on December 22, 2000. This rule is effective January 22, 2001. The Federal Register website is [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). This flash provides a short summary of the Final Rule. We will be providing a satellite broadcast training session in the near future, with an opportunity for asking questions and receiving answers regarding the many changes to DEAR Part 970.

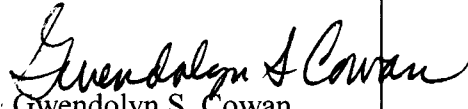
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- ☞ The rulemaking amends portions of the DEAR that apply to M&O contracts to clarify that they mostly implement or supplement FAR coverage rather than replace it. DEAR coverage was reorganized and renumbered so that it corresponds with FAR. Coverage that was obsolete or unnecessary was removed – including ten DOE-unique contract clauses. Policies and procedures internal to DOE were removed and will be reissued in guidance documents as appropriate. The text of several clauses was amended to standardize commonly used deviations and modifications to prescribed FAR and DEAR clauses.
- ☞ The rulemaking adds new contract clauses to prescribe uniform policies in the following areas:
- DOE/contractor cooperation in the dissemination of information to the public;
  - technical direction provided to contractors by a designated Contracting Officer's Representative;
  - collaboration among DOE and its contractors in identifying, evaluating and instituting management improvements;
  - implementation of FAR policies pertaining to Federally Funded Research and Development Centers sponsored by the Department; and
  - community commitment to the local communities in which DOE conducts business.
- ☞ The rulemaking amends the DEAR's coverage regarding management and operating contract cost principles by adopting the Federal Acquisition Regulation cost principles, with some supplemental material provided at Department of Energy Acquisition Regulation Part 970 in Subpart 970.31.
- ☞ Contracting officers must apply these DEAR changes to solicitations issued on or after the effective date of this rule.
- Contracting officers may, at their discretion, include these DEAR changes in solicitations issued before the effective date of this rule, provided award of the resulting contract(s) occurs on or after the effective date.
  - Contracting officers must apply these DEAR changes: to contracts extended in accordance with the Department's extend/compete policies and procedures (48 CFR 917.6, 48 CFR 970.1702-1(a), and internal guidance); and to options exercised under competitively awarded management and operating contracts (48 CFR 970.1702-1(b)).

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- Contracting officers may, after consulting with the Department of Energy Office of Procurement and Assistance Policy of the Office of Procurement and Assistance Management, apply these DEAR changes, with the exception of the changes to the cost principles and related clauses, to existing contracts.
- Contracting officers should modify existing contracts to incorporate the following clauses within one year of the effective date of this rule: 952.204-75, Public Affairs; 952.215-70, Key Personnel; 970.5203-2, Performance Improvement and Collaboration; 970.5203-3, Contractor's Organization; 970.5226-3, Community Commitment; and 970.5235-1, Federally funded Research and Development Center Sponsoring Agreement.

Questions concerning this flash should be directed to Michael L. Righi at michael.righi@pr.doe.gov (202) 586-8175.

  
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cc: PPAG Members